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Remarks

Reconsideration of the above referenced application in view of the enclosed amendment and remarks is requested. Claims 9, 17, 26, 34, and 39 have been cancelled. Claims 1, 3, 4, 8, 14, 18, 20, 21, 25, 31, 35, 37, 38 and 41 have been amended. Existing claims 1-8, 10-16, 18-25, 27-33, 35-38, 40-43 remain in the application. Claims 44-50 have been added to recite further limitations of the present invention. Claims 1-8, 10-16, 18-25, 27-33, 35-38, 40-50 are now pending.

Applicant thanks Examiner for reopening prosecution and conducting a thorough search based on relevant key words.

ARGUMENT

Claims 1-4, 6-13, 8-21, 23-30 and 35-40 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,948,061 to Merriman et al. (hereinafter, "Merriman et al."). This rejection is respectfully traversed based on the above amendments and following discussion.

In order to facilitate focusing prosecution, the rejections of most of the dependent claims generally will not be substantively addressed in this response. However, it is submitted the dependent claims are allowable for at least the reason of depending from allowable base claims as discussed below, as well as because that these claims introduce further limitations distinguishing over Merriman et al.

Merriman et al. teach a system that allegedly determines the geographic location of a domain for purposes of targeted advertising. If a user is not actually in the expected geographic location, it is not a critical failure when the only purpose is advertising. Thus, Merriman et al. use an imprecise method to determine the expected location of the domain name. As described at the cited location (Col. 4, line 56 to Col. 5, line 7), Merriman et al. teach tracking domain name information of various users. Merriman et al. teach specifically using the extension, or "type" of the domain to ascertain the location. However, as Applicants describe in the Specification on page 2, this information may be misleading. This can be especially worrisome

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when the location must be ascertained before allowing a user access to data which is legally prohibited from being exported to certain geographic locations. Merriman et al. teach storing this data in a database, but do not teach or suggest any method to validate this information. Further, the type extension, at best, only loosely implies a geographic location. For instance, the ".com" extension is widely used for domain names not originating in the U.S. With the advent of multiple domain name registration services and a global Internet, a user is often not physically located where one assumes the user to be.

In addition, Merriman et al. assume a domain name and type format. At no time do Merriman et al. teach or suggest *identifying a construction format for the domain name* (Claims 1, 18, 35 and their progeny). As defined in the Specification on pages 3-4,

> "many network addresses are named assigned a text based "human readable" address that is **constructed** with respect to known geographic locations, e.g., airports, cities, states, corporations, schools, etc. By inspecting geographic references in text based addresses assigned to routers and/or hosts situated between a client and server on a network, a server may improve estimates of a geographic location for a client." [emphasis added]

On page 6, it is described that:

> "After text based encodings have been looked up, a **format for the text based encodings** is identified 108. A format describes the arrangement, or structure, of the text assigned to a numeric network address. Frequently, network backbone companies structure the text based network addresses to facilitate organization, management and security of the network addresses. In particular, the structure often comprises a geographic component so that the network backbone can distinguish addresses assigned to different regions of the country." [emphasis added]

Merriman et al. teach that a domain name is expected to have a type extension and do not suggest that other formats having a geographically significant component may be derived by identifying the construction format.

In contrast, Applicants claimed invention (all independent claims) requires the identifying a geographically significant component of the domain name. Fig. 2 shows an example of a text based network address having an airport code. This information is a geographically significant component of the domain name. It will be apparent to one of skill in the art that a type extension, as used by Merriman et al. is not considered to be a geographically significant component of the

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<u>domain name</u>. In fact, those of skill in the art would agree that the type extension is often a <u>mis-indicator</u> of a geographic location, by design of the domain owner. The time zone information and address as stored in the database by Merriman et al. is not information retrieved from a <u>geographically significant component of the domain name</u>. It is information assumed to be correct based on previous interaction with the user. At Col. 5, line 42-44, Merriman et al. admits that "if the domain name for the new user has not previously been processed in the domain profile process, it may not be possible to target the advertisement..." Periodically, Merriman et al. search their database for new users and search for the domain name using the Internet Whois databases (Col. 7, lines 45-56). This method of extracting a geographic location is fraught with perils. As admitted by Merriman et al. some networks cover broad geographic areas. Also, many domain name owners give false or misleading information when registering the domain names.

The Examiner also cites Co. 8, lines 6-30) as showing *performing a trace route between a server and the address of the client, the trace route identifying at least one domain name in a route between the server and the client.* However, at no time do Merriman et al. teach or suggest *identifying a geographically significant component of the domain name.* In fact, Merriman et al. teach determining the geographic location from telephone directories and other sources (Col. 8, lines 15-16). This data could only be searched by retrieving a phone number, which once again, requires the error-prone Whois query. Moreover, searching the Whois databases and then telephone directories can be a time consuming process and as suggested, not suitable for real time use. Applicants' invention provides an advantage over this method. For at least these reasons, Merriman et al. fail to teach or suggest all of the required elements of Applicants Claims. Thus, Claims 1-4, 6-13, 8-21, 23-30 and 35-40 and their progeny are believed allowable, as further discussed below.

Claims 1-9, 14-26, 31-39 and 41-43 are rejected under 35 U.S.C. 102(e) as being anticipated by USPN 6,826,617 to Ansell et al. (hereinafter, "Ansell et al."). This rejection is respectfully traversed based on the above amendments and foregoing and following discussion.

In order to facilitate focusing prosecution, the rejections of most of the dependent claims generally will not be substantively addressed in this response. However, it is submitted the

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dependent claims are allowable for at least the reason of depending from allowable base claims as discussed below, as well as because that these claims introduce further limitations distinguishing over Ansell et al.

Ansell et al. teach a method for determining a geopolitical territory of a domain name. However, the method taught by Ansell et al. is patentably distinct from Applicants' claimed invention. For one, Ansell et al. teach away from regular use of trace routing. In the Summary (Col. 3, lines 6-14) it is described that:

> "Trace routing is too inefficient for inquiries which are ancillary to a commercial transaction. It may take several seconds to several minutes to estimate a geographical location. In a typical commercial transaction, consumers will be loath to wait an additional few minutes while geographical location is estimated. In addition, trace routing can be exceedingly complex to implement in properly handling failure conditions, e.g., to properly interpret paths taken by lost packets."

Thus, it will be apparent to one of skill in the art that Ansell et al. rely on trace routing only in dire circumstances. As described at the cited reference (Col. 10, lines 20-49, and shown in Fig. 4, 432), Ansell et al. teach that resolving a location involves looking at the type (as described above, not necessarily a geographically significant component) at 406 and 412, looking up the information from Internic (whois, as discussed above) and only as a last resort, performing a trace route 432. It will be apparent to one of skill in the art based on the teachings of Ansell et al. that trace routing is a last resort. Further, at no time do Ansell et al. teach or suggest how the trace routing is done, or what results come of it. Only a mere suggestion of "conventional trace routing" is provided. How the results of the trace route are used to determine a geographical position is not described.

In contrast, Applicants' claims require a trace route either be performed or utilized in each and every case. Ansell et al. clearly teach away from this method. Further, Applicants' claim a process (for instance, Claim 1) that *performs a trace route between a server and the address of the client, the trace route identifying at least one domain name in a route between the server and the client; identifies a construction format for the domain name; identifies a geographically significant component of the domain name; determines a geographic location for the domain name based at least in part on the geographically significant component; determines a possible geographic location of the client based on a geographically significant component of*

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a text based network address corresponding to the client network address; and validates the possible geographic location of the client using the determined geographical location of the domain name identified in the trace route, the validating returning a validated geographic location of the client.

It cannot be assumed that Ansell et al. performs the same parsing of a domain name returned by a trace route that is performed for the client network address. In fact, performing the same method for the trace route domain name as described in Fig. 2 is not possible, or at least recursive, as it could require performing another trace route 432. At most, Ansell et al. leave the details of performing the trace route to the imagination of the reader. Results of the trace route magically result in a geographic location. It might be asserted that Ansell et al. do not even enable their own invention. Regardless of Ansell et al.'s enablement problems, the reference clearly does not show what is done with the results of the trace, as explicitly claimed by Applicants. Further, Ansell et al. fails to teach or suggest validating the geographic location of the client using the results of the trace route. Ansell et al. teach that if a likely geographic location can be ascertained by looking at the client's domain name, that trace routing never occurs. Thus, Ansell et al. fail to teach all of the elements of Applicants' claims and the Examiner has failed to provide a *prima facie* case of anticipation as required by law.

Independent Claims 1, 8, 18, 25, 35 and 38 require either validation of the client's location or revision of the estimated client's location based on the data analyzed from the trace route. Ansell et al. fail to teach or suggest what to do with the results of the trace route, and therefore could not possibly show this validating or revision. Thus, Claims 1, 8, 18, 25, 35 and 38 and their progeny are believed allowable.

Independent Claims 14, 31 and 41 require performing a trace route asynchronously between a first one of said filtered network addresses and the server regardless of a whether a previous geographic location for the first one of said filtered network addresses had been determined. Ansell et al. teach away from performing a trace route at all times, as discussed above. Moreover, at no time to Ansell et al. teach or suggest an analyzing means for analyzing a result of said asynchronous performed trace route. Thus, Claims 14, 31 and 41 and their progeny are believed allowable. All claims remaining in the application are now allowable.

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CONCLUSION

In view of the foregoing, Claims 1-8, 10-16, 18-25, 27-33, 35-38, 40-50 are all in condition for allowance. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (703) 633-6845. Early issuance of Notice of Allowance is respectfully requested. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-0221 and please credit any excess fees to such account.

Respectfully submitted,

Dated:__11 Jan. 2007_____   _/ Joni D. Stutman-Horn /_____

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